

**DIVERSION AUTHORITY  
Land Management Committee  
City Commission Room  
Fargo City Hall  
Thursday, October 10, 2013  
2:00 p.m.**

Committee Members Present: Fargo Mayor Dennis Walaker, Oxbow Mayor Jim Nyhof, Cass County Commission Representative Darrell Vanyo, Clay County Commission Representative Jon Evert, Cass County Joint Water Resource District Representative Mark Brodshaug (alternate for Rodger Olson), Buffalo-Red River Watershed District Representative Gerald Van Amburg, Fargo City Administrator Pat Zavoral, Cass County Administrator Keith Berndt, Moorhead City Administrator Michael Redlinger, Clay County Administrator Brian Berg, Fargo Director of Engineering Mark Bittner, City Engineer April Walker (alternate), Dirk Draper - CH2M (Ex-Officio).

Others present: Bruce Spiller - CH2M, Lyndon Pease - Moore Engineering, U.S. Army Corps of Engineers Project Manager Brett Coleman (by phone).

The meeting was called to order by Dennis Walaker.

Agenda Review

There were no additions or amendments to the agenda.

Approve September 12, 2013 Minutes with Amendments

Jon Evert said comparing today's handout to the September 12, 2013 minutes, the values of the two pending property acquisitions are reversed.

Jon Evert moved the minutes from the September 12, 2013 meeting be approved, amending the purchase price of 346 Schnell Drive, Oxbow, ND to be \$505,500.00 plus \$7,500.00 in relocation expenses for a total of \$513,000.00, and the purchase price of the property at 387 170th Avenue SW, Moorhead, MN to be \$268,000.00 plus relocation expenses of \$6,000.00 for a total of \$274,000.00. Keith Berndt seconded the motion. All the members voted aye and the motion was declared carried.

Hardship Acquisition Program Update

Eric Dodds said there have been no new applications since May. Three properties have been purchased through the Hardship Acquisition Program, he said, and two others have been approved for purchase. He said the closing for the property at 387 170th Avenue SW in Moorhead is planned for November and the closing for the property at 346 Schnell Drive in Oxbow will be next spring.

Crop Insurance Update

Eric Dodds said the diversion project will impact agricultural land upstream from Fargo/Moorhead and the Agricultural Policy Subcommittee has looked at flowage easements and crop insurance as the two primary mitigation options for that impact. It is expected that the flowage easement piece will follow the Army Corps of Engineers process of having an appraisal conducted when the easement is acquired, he said. As for the crop insurance piece, he said, there are discussions on whether the Diversion Authority would enter into a self insurance, supplemental program, or perhaps pursue a

rider with the federal crop insurance program. He said he recently had a phone conversation with a contact, a former chief of the Risk Management Agency (RMA) in Washington D.C. and it was suggested that it may be possible to proceed with a non-reinsured supplemental policy which any of the reinsurers could offer and would be privately funded and not subsidized. More research is needed to develop more details, he said. It may be necessary to come back for approval to contract with an insurance expert on claims policy and damage assessment, he said, or potentially pursue an RFP (Request for Proposals) to solicit additional details. A first step is to obtain economic and actuarial information, he said, which needs to be done prior to the policy being developed and brought to the reinsurers and RMA. He stated a decision will need to be made on whether to engage an expert in drafting this or whether a competitive selection process is needed. As far as timing, he said, crop insurance may not be needed for ten years; however, there is motivation to get answers sooner, rather than later. He said the producers and legislators are anxious to know how this will be mitigated. He said it could take a fair amount of time working with some federal agencies to get a policy developed.

Pat Zavoral said not knowing what crop values will be is a problem, particularly if benchmarks are set now and the diversion does not operate for a number of years. As far as getting expertise, he said, the Project Management group could hire someone on a subcontracted basis, as opposed to hiring directly.

Keith Berndt said he agrees that it is hard to be too specific; however, a policy will have to be established. He said there will always need to be flexibility within the program for changes over time.

Jon Evert said it is important for the sake of the farmers to set a policy, even though specific numbers will not be included. He said perhaps it could be worded as "this is what it would be if we did it today." The dollar amounts will change, he said, even Federal Crop Insurance varies from year to year.

Mark Brodshaug said agricultural lenders are interested to see what the policy would look like and producers want to know what is behind the claims of offering to provide insurance. He said it is important to keep moving and develop a policy here, even knowing it could change every couple years in the interim.

Darrell Vanyo said timing is a concern. He said producers are anxious, yet if done too soon it will be a long time before coverage is needed and things could change over time. He suggested that Mr. Dodds continue to work with his RMA contacts and bring information back, that way the wheels will keep turning, and decisions will be made accordingly.

#### Management of Acquired Properties Policy

Dirk Draper shared guidelines for management of properties after acquisition. The policy has been reviewed by the Administrative Advisory Committee and the Finance Committee, he said. The intention is to capture the range of options of how to manage properties after acquisition, he said, and will be followed up with specific guidelines. The plan specifies the following:

*Property Management:* Diversion Authority-owned property will be managed appropriately for the type and use intended. The Diversion Authority or its

designee will pay taxes and assessments; secure appropriate insurance; perform general maintenance; provide security, control access and use for recreational, agricultural, or commercial purposes; provide flood prevention; and control weeds and pests.

*Sale or Disposal:* Diversion Authority properties not needed, in whole or in part, to construct or operate the Project may be sold or otherwise disposed of by appropriate means as allowed by law.

*Rent/Lease:* The Diversion Authority may lease properties in accordance with existing policy.

*Relocation:* The Diversion Authority may sell properties for relocation.

*Demolition:* The Diversion Authority may sell properties for salvage and demolition. Demolition materials will be disposed of and remediated as necessary by a qualified contractor. The Diversion Authority will reclaim or revegetate the site to a condition appropriate for future use intended by the Diversion Authority. In lieu of sale, the Diversion Authority may donate a property to a non-profit organization for salvage.

*Flowage Easement:* The Diversion Authority may place a flowage easement on property prior to sale.

Darrell Vanyo said there has been discussion that, as time goes by and there are more and more properties acquired, some properties can be consent agenda items for the Diversion Authority agenda. It would be subject to the approval of the Finance Committee, he said, and consent agenda items can always be moved to the regular agenda if someone wishes to have a discussion.

Keith Berndt moved the Management of Acquired Properties Policy be forwarded to the Diversion Authority with this Committee's recommendation for approval. Darrell Vanyo seconded the motion. All the members voted aye and the motion was declared carried.

#### Cass County Joint Water Resource District (CCJWRD) Land Acquisition Report

Mark Brodshaug reviewed the Land Management Summary document. He said the form will be updated and presented monthly to show acquisitions. He said property at 333 Schnell Drive was acquired by the CCJWRD Board and is not inhabitable. Ownership will be transferred to the Diversion Authority once some loose ends are tied up, he said, and the Houston/Moore Group is working on a demolition package with the hope that demolition can take place yet this fall or early winter. The Oxbow/Hickson/Bakke area appraisal process is gearing up, he said, and there will likely be a list of properties to get started on at the next Joint Board meeting. Contracts are in place with the Houston/Moore Group and with ProSource to do appraisals and land acquisitions, he said. Work continues on contract details with Ulteig Engineers, he said, and hopefully they can begin on the appraisal of the golf course in Oxbow soon. He said if an agreement cannot be reached with Ulteig, a backup group with golf course appraisal experience has been identified.

### OHB Ring Levee Project Update

Bruce Spiller said the majority of the properties to be appraised have been identified and a list will be presented to the CCJWRD at their meeting in two weeks. He said 40-50 properties will be in the first list with letters to homeowners about buyout intentions to go out following that meeting.

Pat Zavoral said, in a discussion earlier today with real estate representatives from the Corps, it was recommended to have the review appraisals done to the Corps standards; however, that will cost an additional \$67,000.00, he said. If the Corps does the review appraisals, he said, the properties would be in the queue for when the Project Partnership Agreement (PPA) is reached and credit would come more quickly. He suggested the CCJWRD be in contact with the Corps real estate division ahead of appraisals to understand their expectations in terms of approvals.

Bruce Spiller said the levee is under design and remains on schedule to have the southern section of the levee design by November 1st. He stated the schedule is to have that portion designed and ready to bid in the spring with the rest of that portion being designed next summer. He said the levee project is expected to be complete in late fall of 2016.

### Right of Entry Status & Cultural Resources Easement Acquisition Update

Lyndon Pease said crews are working on the remaining cultural surveys not completed last fall on the north end of the diversion project, in the area of I-29 and the Maple River. He said Cultural Survey Phase 1 and 2 testing should be completed within the next few weeks. The majority of the rights of entry, about 80-85%, have been voluntarily signed and returned for Oxbow/Hickson/Bakke, he said, and there were two court hearing dates for the remaining portions. He said District Court granted access for properties at the first hearing and if access is granted at the second hearing, all necessary property access will be obtained for Oxbow/Hickson/Bakke. Geotechnical work is ongoing in that area, he said, and some borings were necessary prior to harvest. He said a method of addressing crop damage is being set up.

### Other Business

Bruce Spiller said appraisals and acquisitions for some properties associated with in-town levees will be discussed at the October 24th Cass County Joint Water Resource District Board meeting.

The next meeting will be Thursday, November 14, 2013 at 2:00 p.m.

The meeting adjourned at 2:37 p.m.